these policies are not working. As the comments demonstrate, however, the policies are working and are delivering benefits. Since the comments also confirm that a mandatory billed party preference system would cause confusion and inconvenience to consumers, at great cost, would have to be cross-subsidized by other services, and would accomplish nothing of significance that is not already provided under established policies, it cannot be in the public interest to impose this system on the public communications industry.

In APCC's view, the proper approach to billed party preference is to allow it to be tested in the marketplace. The system should not be imposed on anyone -- aggregators, IXCs, LECs, or end users. If any LEC wants to offer the service, they should be able to do so subject to generally applicable regulations. The system should be allowed to succeed or fail based on its own marketplace appeal -- not based on a questionable policy judgment that relies on incomplete information concerning both costs and benefits.

VI. IF BILLED PARTY PREFERENCE IS IMPOSED, INDEPENDENT PAYPHONE PROVIDERS MUST BE COMPENSATED

Virtually none of the commenting parties who addressed the issue disputed that the availability of an adequate supply of accessible, well-maintained payphones depends on the preservation of a contribution to the costs of payphones from 0+ calls. See, e.g., CompTel at 25-27. There can be no serious dispute that, under a mandatory system of billed party preference, independent payphone owners would lose their ability to obtain such a 0+

contribution in the marketplace. Under the Commission's proposal, all such calls must be routed to the LEC and then to the billed party's preferred IXC. Neither of these parties would have any incentive to voluntarily pay any commissions for these calls, which must be routed to them in any event. Therefore, it is not surprising that virtually all parties who addressed the issue recognized that it is appropriate to prescribe reasonable compensation for independent payphone owners if they are required to route 0+ calls to a billed party preference system. See, e.g., Bell Atlantic at 9; Southwestern Bell at 15; U S West at 14-15.

Indeed, a failure to compensate independent payphone owners for billed party preference calls would be inconsistent with the Commission's previous decision to prescribe compensation for independent payphone owners for "dial-around" calls. Policy and Rules Concerning Operator Service Access and Pay Telephone Compensation, Report and Order and Further Notice of Proposed Rulemaking, 6 FCC Rcd 4736 (1991). The Telephone Operator Consumer Services Improvement Act of 1990, 47 U.S.C. sec. 226, required the Commission to decide whether to compensate competitive payphone owners "for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones." 47 U.S.C. sec. 226(e)(2). Under billed party preference, 0+ calls must be "routed to providers of operator services that are other than the presubscribed provider of operator services." Therefore, the Commission's decision that such compensation should be prescribed necessarily applies to billed party preference calls as well as to "access code" calls.

A number of parties contend that LEC payphones also should be included, in some fashion, in the system used to compensate independent payphone owners for billed party preference calls. This would not be appropriate unless the Commission implements other changes -- as APCC has repeatedly urged -- to place LEC and independent payphones on the same regulatory footing. See note 5.

Independent payphone owners require compensation for calls routed to billed party preference because they collect no revenue on such calls. LECs, on the other hand, will collect plenty of revenue on billed party preference calls.[5] Therefore, there is no reason for the Commission to prescribe special additional compensation for LEC payphones, unless the Commission first acts to equalize the regulatory status of LEC and independent payphones. If fully effective action is taken to achieve such parity, then by definition the various forms of regulatory compensation flowing to each type of payphone would be equalized.

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[5] While IXCs would no longer compensate LEC premises owners directly for 0+ calls, they would be compensating the LECs very amply by paying whatever charges were assessed by the LECs for the billed party preference service. (In addition, of course, they would be paying the LECs other access charges, which are currently used to recover the interstate costs of LEC payphones, including any commissions that the LECs find it necessary to pay premises owners.) APCC cannot imagine that the LECs believe that billed party preference will be so unpopular among end users that they will be unable to collect enough revenue to pay whatever additional commissions are necessary to replace the commissions currently paid by IXCs. If billed party preference is going to be that unpopular, then that is one more reason not to impose it.

CONCLUSION

For the foregoing reasons, the Commission must conclude that it is not in the public interest to impose a mandatory system of billed party preference.

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